

## REMARKS

### Status of the Claims

Applicants have cancelled claims 2, 13 and 17. Claims 1, 3-12, 14-16, and 18-20 are currently pending in the present application.

### Issues Under 35 U.S.C. § 112

The Examiner has rejected claims 1-20 under 35 U.S.C. § 112, first paragraph, as containing subject matter which was described in the specification in such a way as to enable one skilled in the art to which it pertains, or in which it is more nearly connected, to make and/or use the invention. Applicants respectfully traverse.

As long as the specification discloses at least one method for making and using the claimed invention that bears a reasonable correlation to the entire scope of the claim, then the enablement requirement of 35 U.S.C. § 112 is satisfied. MPEP § 2164.01(b); In re Fisher, 427 F.2d 833, 839, 166 U.S.P.Q. 18, 24 (C.C.P.A. 1970). Applicant respectfully states at least one method for making and using the invention has been set forth, satisfying the enablement requirement. As the § 132 declaration indicates, CCD scanners, such as those disclosed in the specification ¶ 64, using a high scan rate, defined as 100 scans per second or higher, have been found to be capable of reading video displayed bar codes. Applicants would be willing to demonstrate this for the Examiner, should the Examiner so desire.

The Examiner bases the rejection on the Examiner's use of a WelchAllyn Model 3400HD Scanner apparently provided by the Patent Office and connected to the Examiner's personal computer. It is not known what programmable scan rate (50 or 112 scans/sec.) the WelchAllyn 3400 series was set at by the Examiner or whether it was set to emulate a laser reader or a CCD reader. Accordingly, Applicants respectfully request that the Examiner support the facts

allegedly within the personal knowledge of the Examiner with an affidavit of the Examiner detailing out the settings, model numbers, and other conditions of the Examiner's tests pursuant to 37 C.F.R. § 1.104(d)(2).

Applicants have submitted herewith a declaration under 37 C.F.R. § 1.132 traversing the Examiner's findings and indicating that a high scan rate WelchAllyn Model 3400 series has been used to read bar codes off of video display screens. The WelchAllyn 3400 series CCD Model has two scan rates, one of which Applicants indicated would not work. As indicated on page 3, paragraph 6, bar code readers having a low scan rate between 30 and 100 scans per second have not been found to read video displayed bar codes. The WelchAllyn 3400 series can be set to use a scan rate of 50 scans per second, well within the range of inoperable scan rates found by Applicant. As Applicants have clearly shown that the scanners disclosed do allow one of ordinary skill in the art to make and/or use the invention, Applicants respectfully request this rejection be withdrawn.

The Examiner has also rejected claims 2, 13 and 17 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Examiner recites a "high scan rate" is relative terminology. Applicants have defined a low scan rate to be between 30 and 100 scans per second. See ¶ 6 of Applicant's Specification. Moreover, Applicants' specification ¶ 64 sets forth examples of two scanners which operate to read video displayed bar codes at scan rates of 100 scans per second or higher. As the § 132 Declaration of Bruce D. Melick indicates, Applicants considered a high scan rate to be of 100 scans per second or higher. Moreover, Applicants have incorporated this definition of high scan rate into claims 1, 9, and 16 and

cancelled claims 2, 13 and 17. Therefore, Applicants respectfully request this rejection be withdrawn.

**Issues Under 35 U.S.C. § 102**

The Examiner has rejected claims 1-3, 5 and 7 under 35 U.S.C. § 102(b) as being anticipated by USPTO workstations in public use more than one year prior to January 3, 2000. Applicants respectfully traverse. The Examiner is reminded that any prior art relied upon must be enabling. In Re Donohue, 766 F.2d 531 226 U.S.P.Q. 619 (Fed. Cir. 1985). As the Examiner has stated, the WelchAllyn 3400 HD allegedly used by the Examiner did not work and apparently was of the low scan rate variety. Applicants respectfully state the Examiner has failed to put forth a prima facie case of enabling prior art sufficient to satisfy the anticipation requirement of 35 U.S.C. § 102. Therefore, Applicants respectfully request these rejections be withdrawn.

The Examiner has also rejected claims 1, 3, 9, 10, 14, 16 and 18 under 35 U.S.C. § 102(b) as being clearly anticipated by Takahisa. Again, the Takahisa reference merely discloses the use of conventional bar code readers, which the Examiner has found do not work. Therefore, the Takahisa reference is also not an enabling disclosure. As Applicants have stated throughout the specification and in the § 132 Declaration, hand-held scanners must have a high scan rate, defined as more than 100 scans per second, are capable of reading video displayed bar codes. Therefore, as the Examiner has failed to set forth an enabling disclosure sufficient to anticipate Applicants' invention, Applicants respectfully request these rejections be withdrawn.

**Issues Under 35 U.S.C. § 103**

The Examiner has rejected claims 4, 6, 8-13 and 15-20 under 35 U.S.C. § 103. Again, the Examiner has failed to set forth an enabling prior art reference. The Examiner has not produced

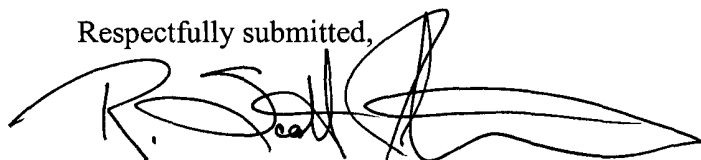
any affidavits or declarations sufficient to show that any alleged prior use in the USPTO enabled one of ordinary skill in the art to practice the invention. To the contrary, the Examiner has found the use of USPTO equipment does not work. As Applicants have shown the specification and the specific examples set forth therein do illustrate how to practice the invention, Applicants respectfully request the Examiner's citation of non-enabling prior art be withdrawn. Therefore, Applicants respectfully request these rejections be withdrawn.

**Conclusion**

In light of the above, Applicants respectfully request allowance of claims 1, 3-12, 14-16 and 18-20. It is submitted that all of the claims are in allowable form. It is not believed that any further fee and/or petition for extension of time is required with this response. The Examiner is invited to contact the undersigned at the number indicated below should it be determined it would advance prosecution.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "**Version with markings to show changes made.**"

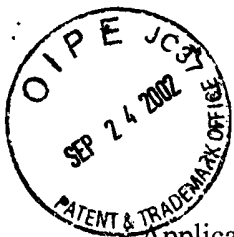
Respectfully submitted,



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**AMENDMENT — VERSION WITH MARKINGS  
TO SHOW CHANGES MADE**

**In the Claims**

Please cancel claims 2, 13 and 17.

Please amend claims 1, 9 and 16.

**1. (Amended)**

A new bar code data interchange system comprising:

- a first video display;
- a bar code containing information, the bar code being displayed on the first video display;
- a first video displayed bar code reader that includes a scanner operating at 100 or more scans per second; and
- a first host device operatively connected to the bar code reader.

**9. (Amended)**

A new method of bar code data interchange, the method comprising:

- viewing a bar code on a video display;
- using a scanner operating at 100 or more scans per second and scanning the bar code on the
- video display;
- converting the scanned bar code into data; and
- inputting the data into a desired location.

**16. (Amended)**

A method of using video displayed bar code data, the method comprising:

- transmitting bar code data to a user;
- displaying the bar code data on a video display capable of being viewed by the user;
- scanning the bar code data from the video display using a scanner operating at 100 or more scans per second;
- decoding the scanned bar code data into information; and

using the information for a desired purpose.